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PATENT
32860-000953/US

IN THE U.S. PATENT AND TRADEMARK OFFICE

APPLICATION NO.: 10/551,454
APPLICANT: Roy OBERHAUSER et al.
INTERNATIONAL APPL. NO.: PCT/EP2004/003301
CONF.: 3037
FILED: October 1, 2008
FOR: METHOD AND ARRAY FOR CHANGING
SOFTWARE OR SOURCE CODE

**RESPONSE TO NOTICE TO FILE MISSING
REQUIREMENTS OF AN APPLICATION**

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314
Mail Stop PCT

October 1, 2008

Sir:

Under the provisions of 37 C.F.R. § 1.494 or 37 C.F.R. § 1.495, attached hereto are the following additional items necessary for entering the national phase in connection with the above-identified PCT international application.

Executed Declaration and Power of Attorney.

Original Photocopy

The specification attached to the executed Declaration and Power of Attorney is a true copy of the specification which was filed in the U.S. Patent and Trademark Office on , including any amendments thereto (if applicable) filed on even date therewith.

The undersigned hereby declares that Attorney Docket No. 32860-000953/US on page 1 of the attached inventors' Declaration corresponds to

Appl. No. 10/551,454 filed September 30, 2005 entitled "METHOD AND ARRAY FOR CHANGING SOFTWARE OR SOURCE CODE."

English language specification, claims, and Abstract with () sheets of drawings.

Applicant claims small entity status under 37 C.F.R. § 1.27.

Attached is a copy of Form PCT/DO/EO/905.

Attached is a copy of the Decision on Petition mailed April 4, 2008 which verifies that there is no sequence listing required to be filed in connection with the above-identified application.

No extension fee is required because the undersigned has filed the documents within the allotted time given by the Notification of Missing Requirements (Form PCT/DO/EO/905). However, if for some reason it is determined that an extension of time is necessary, applicant hereby respectfully petitions for an extension of time for the filing of the present paper in accordance with the provisions of 37 C.F.R. § 1.136 and 37 C.F.R. § 1.17.

Applicant(s) hereby respectfully petitions for () month(s) extension of time for the filing of the present paper in accordance with the provisions of 37 C.F.R. § 1.136 and 37 C.F.R. § 1.17. The required fee of \$0.00 is attached hereto.

The Government Filing Surcharge (37 C.F.R. § 1.16(e)) and the basic Government Filing Fee (37 C.F.R. § 1.16(a)-(d)) (if applicable) is attached hereto and calculated as follows:

Surcharge (Large Entity - \$130.00;
 Small Entity - \$ 65.00)

Submitted concurrently herewith **under separate cover** for recording

is an Assignment.

- A Fee of \$0.00 to cover the increase in fees of the filing Surcharge is enclosed.
- Check(s) in the amount of \$130.00 to cover the above-mentioned fees is/are enclosed.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By



Donald J. Daley, Reg. No. 34,313
P.O. Box 8910
Reston, VA 20195
(703) 668-8000

DJD:amn

Attachments

(Rev. 01/13/05)

10/02/2008 LLANDGRA 00000050 10551454

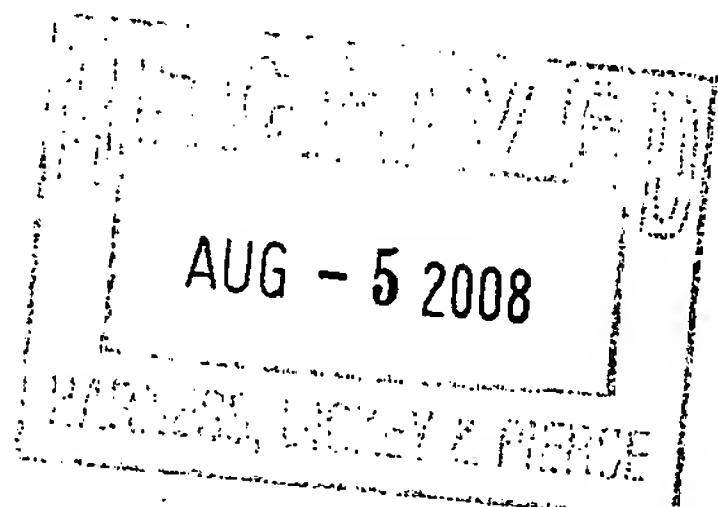
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/551,454	Roy Oberhauser	32860-000953/US
30596 HARNESS, DICKEY & PIERCE, P.L.C. P.O.BOX 8910 RESTON, VA 20195		INTERNATIONAL APPLICATION NO. PCT/EP04/03301
	I.A. FILING DATE	PRIORITY DATE
	03/29/2004	04/01/2003

CONFIRMATION NO. 3037
371 FORMALITIES LETTER



OC000000030438690

Date Mailed: 08/01/2008

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Priority Document
- Copy of the International Application filed on 09/30/2005
- Copy of the International Search Report filed on 09/30/2005
- Copy of IPE Report filed on 09/30/2005
- Preliminary Amendments filed on 09/30/2005
- Information Disclosure Statements filed on 09/30/2005
- Oath or Declaration filed on 09/30/2005
- Biochemical Sequence Listing filed on 04/04/2008
- Request for Immediate Examination filed on 09/30/2005
- U.S. Basic National Fees filed on 09/30/2005
- Priority Documents filed on 09/30/2005
- Power of Attorney filed on 09/30/2005
- Non-English Language Application filed on 09/30/2005
- Specification filed on 09/30/2005
- Claims filed on 09/30/2005
- Abstracts filed on 09/30/2005
- Drawings filed on 09/30/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

Matter no.	101/08	Final Date 2/1/09
Action Due Date	10/1/08	Final Date 2/1/09
Action	Miss. Rmt.	
Atty	DSD	DKT/Verify

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- **For Rules Interpretation, call (571) 272-0951**
- **For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.**
- **Send e-mail correspondence for Patentin Software Program Help @ ebc@uspto.gov**

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5).

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

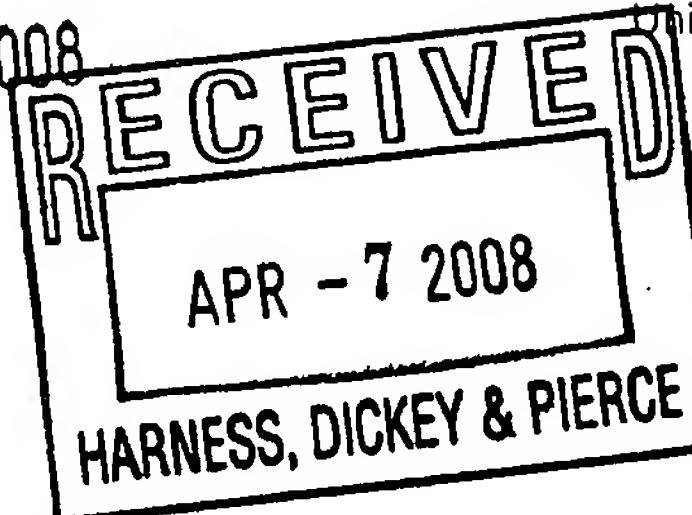
PAULETTE R KIDWELL

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UNITED STATES PATENT AND TRADEMARK OFFICE

04 APR 2008



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HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON VA 20195

In re Application of:
OBERHAUSER, Roy, et al.
U.S. Application No.: 10/551,454 : DECISION ON PETITION
PCT No.: PCT/EP2004/003301 :
International Filing Date: 29 March 2004 :
Priority Date: 01 April 2003 :
Atty Docket No.: 32860-000953/US :
For: METHOD AND ARRAY FOR :
CHANGING SOFTWARE OR :
SOURCE CODE :
:

This decision is issued in response to the "Petition Under 37 CFR 1.181 To Withdraw Holding Of Abandonment" filed 03 March 2008. No petition fee is required.

BACKGROUND

On 29 March 2004, applicants filed international application PCT/EP2004/003301. The international application claimed a priority date of 01 April 2003, and it designated the United States. On 14 October 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 01 October 2005.

On 30 September 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and an executed declaration.

On 24 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922) indicating that sequence listing materials were required.

On 25 February 2008, the DO/EO/US mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned based on applicants' failure to respond to the notification mailed 24 May 2006.

On 03 March 2008, applicants filed the "Petition Under 37 CFR 1.181 To Withdraw Holding Of Abandonment" considered herein. The petition asserts that applicants never received the notification mailed 24 May 2006 and that the holding of abandonment should therefore be

Matter no.		
Action Due Date	15/05/08	Final Date
Action <u>new action record?</u>		
Atty	DDP	DKT/Verify

withdrawn. The petition notes that the application file viewable on Private Pair does not include any Notification mailed 24 May 2006, and applicant has therefore still not seen such Notification.¹

DISCUSSION

The present application involves computer software; the invention does not contain nucleotide and/or amino acid sequence disclosures. Accordingly, the “Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures” (Form PCT/DO/EO/922) mailed 24 May 2006 was issued in error and is therefore appropriately vacated.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 28 February 2008, based as it was on applicants’ failure to respond to the now vacated Form PCT/DO/EO/922 mailed 24 May 2006, is therefore also appropriately vacated.

Based on the above, applicants’ present petition requesting withdrawal of the holding of abandonment based on applicants’ failure to receive the previously mailed notification is now moot.

A review of the present application file reveals that the declaration filed herein is defective. Specifically, the hand-written indications regarding the address of inventor Christian REICHEL have not been initialed or signed. Any changes made in ink in the application or declaration prior to signing should be initialed and dated by the applicants prior to execution of the declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration (see MPEP 605.04(a)). In addition, the four pages of declaration filed here appear to be a compilation of two separate three-page declarations, and as such are not acceptable under 37 CFR 1.497 (See MPEP § 201.03(II)(B): “Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.”). The compilation is evident from the fact that the declaration submitted includes one copy of “Page 1” and “Page 2,” but two different copies of “Page 3.” Finally, the English translation contained in the declaration is incomplete in that the title of the application has not been translated on the English side of the declaration form.

CONCLUSION

The “Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures” (Form PCT/DO/EO/922) mailed 24 May 2006 and the Notification Of Abandonment (Form PCT/DO/EO/909) mailed 28 February 2008 are hereby **VACATED**.

Because the holding of abandonment has been vacated, applicants’ petition to withdraw the holding of abandonment is **DISMISSED AS MOOT**.

¹ A courtesy copy of the Notification mailed 24 May 2006 is attached to the present decision.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring the submission of an acceptable declaration under 37 CFR 1.497 and the surcharge for filing such declaration later than thirty months after the priority date.

RRR

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Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0419

Encl.: Copy of Form PCT/DO/EO/922 mailed 24 May 2006 (now vacated)